

EXHIBIT M

NEW ENGLAND COMPOUNDING PHARMACY, INC. PRODUCTS LIABILITY
VIDEOTAPED DEPOSITION OF JEAN ATKINSON on 03/10/2015

Page 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND
COMPOUNDING PHARMACY,
INC. PRODUCTS LIABILITY MDL No. 2419
LITIGATION

Master Dkt:
1:13-md-02419-RWZ

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THIS DOCUMENT RELATES  
TO:

All Actions  
  
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VIDEOTAPED DEPOSITION OF
JEAN ATKINSON

9:04 a.m.
March 10, 2015

Suite 1100
315 Deaderick Street
Nashville, Tennessee

Blanche J. Dugas, RPR, CCR No. B-2290

1 Q. Have you gone by any other names during
2 your life?

3 A. No.

4 Q. Is there any reason why you can't testify
5 truthfully and accurately today? For example, have
6 you taken any medicine that may impact your memory or
7 impulse or anything of that nature today?

8 A. No.

9 Q. Okay. Have you consumed any -- any alcohol
10 or drugs or anything else that may affect your ability
11 to answer questions?

12 A. No.

13 Q. Okay. Thank you. Did you do anything to
14 prepare for this deposition today?

15 A. I just met with the lawyers of the case,
16 our lawyers.

17 Q. Who did you meet with specifically?

18 A. C.J., Chris and Matt and Mr. Parks.

19 Q. Was that just one meeting?

20 A. Three, I think.

21 Q. Three. Did you meet with anyone besides
22 your attorneys to prepare for this deposition? Anyone
23 at Specialty Surgery or anyone else?

24 A. No.

25 Q. Did you review any documents in preparation

1 for this deposition?

2 A. Yes.

3 Q. Were these documents all given to you by
4 your attorney?

5 A. Yes.

6 Q. Did you review any documents on your own in
7 preparation for this deposition?

8 A. Yes.

9 Q. Okay. What documents did you review on
10 your own for this deposition?

11 A. Well, I guess it's the same ones that I was
12 given to by the lawyers, the copies that was given to
13 everybody.

14 Q. When were they given to everyone?

15 A. When -- just randomly over the last few
16 months when the procedures occurred. All the -- all
17 documents that I reviewed was given to the lawyers.

18 Q. Okay. Can you give me just examples of
19 what these documents were. Are these, like, order
20 forms from NECC?

21 A. Yes.

22 Q. Okay. What other things? Were they your
23 notes?

24 A. All the notes that I took and everything
25 was given to my lawyers.

1 Q. Okay. Did you review those to prepare for
2 the deposition today?

3 A. Yes.

4 Q. Okay. Is there anything else that you
5 looked at to prepare for this deposition on your own?

6 A. No.

7 Q. Okay. Did you have any phone calls to
8 prepare for this deposition with someone besides your
9 attorneys?

10 A. No.

11 Q. Did you review any deposition transcripts
12 in preparing for this deposition?

13 A. I don't know -- deposition -- my --

14 Q. Any transcripts of any question-and-answer
15 sessions between lawyers and a witness.

16 A. I just reviewed the stuff that my lawyers
17 give me.

18 Q. Okay. Was there a transcript of any
19 interviews in there that you were -- that you
20 reviewed?

21 A. I'm not real sure what you're saying by
22 transcripts.

23 Q. Like a typed-up thing that would have like
24 a questioner that would ask questions of someone and
25 they would answer and it would be typed out similar to

1 what the court reporter is doing today.

2 A. Yes.

3 Q. Whose depositions were those?

4 A. The ones I reviewed was my --

5 Q. Your previous one?

6 A. Just the previous questions that was asked.

7 Q. So were these the questions that were asked
8 yesterday?

9 A. No.

10 Q. Okay. Who was the witness in those
11 deposition transcripts?

12 A. I don't think it was the deposition. It
13 was just when I met with our lawyers and they asked
14 questions. It was no deposition.

15 Q. Okay. Okay. Fair enough. Ms. Atkinson,
16 do you have a criminal record?

17 A. No.

18 Q. Have you ever been charged with a crime?

19 A. No.

20 Q. Have you ever been involved in any
21 governmental investigations?

22 A. No.

23 Q. I'm going to hand you what has been
24 represented to me to be your CV.

25 MR. STRANCH: I think this is

1 Exhibit 99. Is that correct?

2 MR. GASTEL: There's a 98, I think.

3 MR. STRANCH: There's a 98 on another
4 one?

5 MR. DREW: Her CV was already entered
6 as an exhibit.

7 MR. STRANCH: No. Not hers. That
8 was Listers. This is Atkinson's CV.

9 MR. CHALOS: It was passed out. The
10 exhibit was only Dr. Lister's.

11 (Exhibit 98 was marked for
12 identification.)

13 Q. (By Mr. Stranch) Take a look at that and
14 tell me if you recognize that document.

15 MR. REHNQUIST: This is 98, Gerard?

16 MR. STRANCH: Yes, that's correct.
17 I'm marking it 98. I assume that means it
18 is.

19 MR. REHNQUIST: It is now.

20 THE WITNESS: The only thing that has
21 changed on this in 2009, the Calishers &
22 Associates took over the management of the
23 Specialty Surgery Center. So from 2009 on,
24 where it says Specialty Surgery Center --

25 Q. (By Mr. Stranch) Yes.

1 A. -- I did not maintain policy and procedure.
2 That was Calishers.

3 Q. To present or to --

4 A. Since 2009 till present.

5 Q. So they're still doing the policy and
6 procedures for y'all?

7 A. No, until the center -- the ownership of
8 the center was dissolved in 2013. So from 2009 till
9 around June, I guess, 2013, the manager -- the
10 Calishers maintained policy and procedure, they did
11 employee payroll, payments to vendors. Otherwise,
12 it's correct.

13 Q. Did they do selection of vendors as well?

14 A. Yes.

15 Q. Before we get into the Calishers, I want to
16 just ask you some questions on your resumé. I assume
17 this is your resumé --

18 A. Yes.

19 Q. -- you do recognize it?

20 A. Yes.

21 MR. GIDEON: Jean, you're going to
22 have to let him finish his question before
23 you start to answer.

24 THE WITNESS: Okay.

25 MR. GIDEON: I know you think he's

1 Q. Okay. So if it was already in the center,
2 it was your job to make sure there was enough in the
3 drawer to keep doing the procedures; correct?

4 A. Correct.

5 Q. And if a doctor -- and if there was a new
6 medicine, then that doctor would have to come to you
7 and say, "I'd like you to start ordering X instead of
8 Y," or a different type of medicine. Is that how that
9 would work?

10 A. Yes.

11 Q. And was that the way that it worked up
12 until 2009 when Calisher was hired?

13 A. That --

14 Q. The ordering of medicine. The procedures
15 we just went through where you would just check once a
16 week to see what was low and then order more as
17 needed, and then if something new was wanted, then the
18 doctor would come to you and ask for it. Was that the
19 procedure that was followed up until Calisher was
20 hired?

21 A. Yes. All medications up to Calishers was
22 hired was approved by the physician that needed the
23 medication.

24 Q. Okay. During this time, how many
25 compounding pharmaceutical companies were you ordering

1 from?

2 A. None.

3 Q. Were you only -- were you only ordering
4 during this time through FDA approved pharmacy -- FDA
5 approved and overseen pharmaceutical companies?

6 A. Yes.

7 Q. Okay. Were any additional job
8 responsibilities put on you after 2001 when you became
9 the director of nursing, or did those responsibilities
10 stay pretty consistent through the end of your tenure
11 with Specialty Surgery?

12 A. Say that again.

13 Q. Okay. So you've listed your job
14 responsibilities in 2001 when you became director of
15 nursing.

16 A. Uh-huh (affirmative).

17 Q. Was there a time after that in which you
18 either received more job responsibilities or were any
19 job responsibilities taken away from you?

20 A. No.

21 Q. We discussed that in 2009 when Calisher was
22 hired certain responsibilities were taken off of you.

23 A. Yes.

24 Q. That's the maintain policy and procedures,
25 employee payroll, payments to vendor, overseeing

1 correct?

2 A. The only difference is it doesn't have a
3 preservative in it.

4 Q. But that's a difference, isn't it?

5 A. That's a difference. It's still the same
6 drug.

7 Q. So did you go to Calister [sic] before
8 ordering MPA from NECC?

9 A. Yes.

10 Q. And why did you go to Calisher before
11 ordering MPA?

12 A. It was a new vendor and they had asked for
13 patient names.

14 Q. So what was it that triggered your review
15 by Calister? Was it because there was a new vendor or
16 was it -- was that solely the reason why?

17 A. Like I said, it was a new vendor and NEC
18 had asked for patient names.

19 Q. Okay. And what about asking for patient
20 names triggered a warning in your head?

21 A. I had never been asked for patient names by
22 another vendor.

23 Q. Okay. And if Calister had told you when
24 you contacted them about NECC being a new vendor and
25 the patient names, if they had said, no, don't order

1 from them, would you have ordered from NECC?

2 A. No, sir.

3 Q. So even if NECC hadn't asked you for the
4 new names, if Calister had said, "We've done our due
5 diligence and we don't think you should order from
6 them," you would not have ordered from them; correct?

7 A. No.

8 Q. And Calisher must approve all new vendors;
9 correct?

10 A. Correct.

11 Q. Did you rely upon Calisher to do due
12 diligence into whether NECC was a reputable supplier?

13 A. Say that --

14 Q. Did you rely upon Calisher to do due
15 diligence to determine whether NECC was a reputable
16 supplier?

17 A. I'm still not getting your question. I'm
18 sorry.

19 Q. Let me try by making a little bit of a
20 statement and maybe that'll help explain --

21 A. Okay.

22 Q. -- what I'm doing.

23 In doing procurement, no matter what,
24 there's some vendors that are reliable --

25 A. Uh-huh (affirmative).

1 pharmacy company U.S. Compounding come through and I
2 discussed with them.

3 Q. When -- so you were looking at two separate
4 compounding pharmacy companies --

5 A. No.

6 Q. -- at the same time?

7 A. I was looking -- NECC had give me the
8 information. U.S. Compounding just come through that
9 day to leave a card so...

10 Q. Okay. And so any further investigation
11 beyond what you detailed here would have been done by
12 the Calishers; correct?

13 A. Yes.

14 Q. So you didn't look into whether NECC had
15 had any regulatory actions taken against them because
16 of previous problems, did you?

17 A. No.

18 Q. You didn't look into whether NECC had a
19 prior history of producing contaminated products?

20 A. No.

21 Q. You didn't go to any federal or state
22 agencies to determine whether they had any complaints
23 or taken any actions against NECC, did you?

24 A. No.

25 Q. Okay. And did you rely upon the Calishers

1 Q. And during the times in which you ordered
2 with -- from CuraScript and Besse, I understand there
3 were some occasions when the Depo-Medrol was on
4 backorder; is that correct?

5 A. Yes.

6 Q. Did you eventually receive the Depo-Medrol
7 that you ordered each time?

8 A. Yes.

9 Q. Were any surgical procedures canceled as a
10 result of not having sufficient supply of Depo-Medrol
11 during this time?

12 A. Not that I can recall.

13 Q. So what was the third -- it was CuraScript,
14 Besse, and what was the third pharmaceutical company?

15 A. Physician Sales. We never ordered from
16 those. It was just a company that Calishers had asked
17 me to contact.

18 Q. Okay. Is that company also known as PSS?

19 A. I think so.

20 Q. And why did you never place an order with
21 PSS?

22 A. They didn't have the preservative-free
23 Depo-Medrol.

24 Q. And that was the only reason you were going
25 to do business with them was the preservative-free

1 Depo-Medrol?

2 A. Yes.

3 (Exhibit 99 was marked for
4 identification.)

5 Q. (By Mr. Stranch) I'm going to hand you a
6 document that I'm going to mark as Exhibit 99. I
7 believe it will be Exhibit 99. This is a collection
8 of documents. I'd ask that you scan through this
9 quickly and tell me if you recognize this collection
10 of documents.

11 MR. GIDEON: Irrespective of him
12 saying go through it quickly, take your
13 time to recognize what you're looking at.

14 MR. GASTEL: They're the CuraScript
15 orders organized chronologically from 2011
16 through 2012. So the Bates numbers are not
17 sequential, but the chronology is correct.

18 MR. REHNQUIST: Ben, I'm sorry, can
19 you repeat that.

20 MR. GASTEL: So the exhibit is a
21 collective exhibit of the CuraScript order
22 invoices and they're organized
23 chronologically, not necessarily in the
24 numerical order of the Bates stamps.

25 MR. REHNQUIST: Thank you.

1 Q. (By Mr. Stranch) Ms. Atkinson, the
2 question that I'm going to ask you when you finish
3 your review is: Do you recognize these documents?

4 A. Okay. Yes.

5 Q. You do recognize these documents?

6 A. Yes.

7 Q. And are these the e-mail confirmations and
8 attached invoice showing what you had ordered from
9 CuraScript?

10 A. I can't remember if they're all there or
11 not, but, yes, they look like the ones that I placed.

12 Q. Whether they're all there or not, that's
13 what all these documents are; correct?

14 A. Yes.

15 Q. And you maintained these in the normal
16 course of business at Specialty Surgery?

17 A. Yes.

18 Q. Okay. And let's turn to the first page,
19 SSC-02970. It's the top page right there.

20 A. Okay.

21 Q. This is an example of an e-mail that you
22 would receive when you placed an order with
23 CuraScript; correct?

24 A. Yes.

25 Q. Okay. So the way the process would work

1 was you would log in, you would enter what you wanted
2 to order; correct?

3 A. Correct.

4 Q. And then when you completed that and sent
5 the order, they would sent you this e-mail that would
6 let you know that they received your order; correct?

7 A. Correct.

8 Q. And then attached to that e-mail would be,
9 if you turn over to the next page, SSC-02971; correct?

10 A. Yes.

11 Q. Okay. And this second page, 2971 of the
12 collective, is a confirmation of what you had ordered;
13 correct?

14 A. Yes.

15 Q. Okay. Let's turn over to SSC-02995. It's
16 kind of cut off on the copy on the bottom so maybe
17 look for 994. If you take a look at the ordered on
18 date, it's July 22nd, 2011. And these are in
19 chronological order if that helps.

20 A. July.

21 MR. REHNQUIST: What's the date of
22 the invoice, Gerard?

23 MR. STRANCH: July 22nd, 2011.

24 THE WITNESS: Okay.

25 Q. (By Mr. Stranch) Do you see the order

1 confirmation there?

2 A. Yes.

3 Q. Okay. Under Depo-Medrol, 80 milligrams/mL,
4 that's your order for Depo-Medrol; correct?

5 A. Correct.

6 Q. This is a standing order that you renewed
7 monthly, approximately once a month or so; correct?

8 A. It varied on how our supply was with the --
9 how much we had on hand, how much I ordered.

10 Q. But between every three and six weeks,
11 you'd have to place another order; correct?

12 A. Correct.

13 Q. Okay. And this is a value pack of 25
14 single dose vials; correct?

15 A. Yes.

16 Q. And you ordered three of those at this
17 point?

18 A. Yes.

19 Q. So a total of 75 vials; correct?

20 A. Yes.

21 Q. Was this preservative-free Depo-Medrol?

22 A. No.

23 Q. And it says it's on backorder here;
24 correct?

25 A. Correct.

1 Q. And it says the approximate release date is
2 August 19th, 2011; correct?

3 A. Yes.

4 Q. And so what that meant was they think they
5 would be able to send it to you on approximately
6 August 19th, 2011; correct?

7 A. Correct.

8 Q. Okay. Now let's turn back to the second
9 page, 2971, second from the bottom, Diprivan. And I
10 apologize if I've butchered the pronunciations again.

11 A. Correct.

12 Q. It says backorder, four, and it says
13 approximate release currently unknown; correct?

14 A. Correct.

15 Q. When it says that, that means they're not
16 sure when they're going to be able to fulfill it;
17 correct?

18 A. Correct.

19 Q. And you previously testified that with the
20 Depo-Medrol, even if it was on backorder, you would
21 eventually receive it; correct?

22 A. Correct.

23 Q. Was there ever a time with CuraScript or
24 Besse in which you ordered Depo-Medrol that was on
25 backorder and you did not receive it?

1 A. Not that I recall.

2 Q. Okay. I'm going to hand you another
3 collection of documents here. I'm going to represent
4 to you that these are web order confirmations from
5 Besse Medical and ask that you take a look at these.
6 I'm going to mark these as Exhibit 100 and I'll be
7 asking you the same questions that I did at the start
8 of the CuraScript ones, whether you recognize and
9 whether these are maintained in the normal course of
10 business and whatnot.

11 (Exhibit 100 was marked for
12 identification.)

13 MR. GASTEL: And the same thing on
14 these, they're not numerical order by Bates
15 stamped. They're chronological by date.

16 THE WITNESS: Okay.

17 Q. (By Mr. Stranch) Okay. Do you recognize
18 these documents?

19 A. Yes.

20 Q. Are these the web order confirmations from
21 Besse Medical?

22 A. They appear so.

23 Q. Well, let's look at SSC-02701. Is this an
24 example of a web order confirmation from Besse
25 Medical? That's the first document.

1 A. Yes.

2 Q. Okay. And are these documents that you
3 maintained in the normal course of business at
4 Specialty Surgery?

5 A. Yes.

6 Q. Okay. And these reflect what you had
7 ordered through a web portal at Besse Medical;
8 correct?

9 A. Yes.

10 Q. And so on this first one, it shows
11 Depo-Medrol 80 milligrams/mL, 25 times one milliliter,
12 two pack. So you're ordering 50 single dose vials of
13 Depo-Medrol; correct?

14 A. Yes.

15 Q. Okay. And why would you order from Besse
16 Medical or CuraScript? Would you play one against the
17 other on price?

18 A. No. If I ordered from one, like
19 CuraScript, it was on backorder, then I would go to
20 Besse.

21 Q. Okay. And did you ask Besse or CuraScript
22 whether they could supply Depo-Medrol
23 preservative-free at any point?

24 A. Yes.

25 Q. And what did they say?

1 A. No.

2 Q. Did they say no because they couldn't get a
3 supply or did they say no because they don't believe
4 it existed?

5 A. I don't recall.

6 Q. Are you aware that Pfizer manufactures a
7 preservative-free Depo-Medrol?

8 A. Not to my knowledge.

9 Q. Did you order Depo-Medrol from any entities
10 other than Besse Medical, CuraScript -- or CuraScript?

11 A. No.

12 Q. Did you price out Depo-Medrol from any
13 entities other than Besse Medical or CuraScript?

14 A. No.

15 Q. And for preservative-free MPA, you only
16 consulted with NECC about purchasing that; correct?

17 A. Correct.

18 Q. Did you ask Calisher for a list of vendors
19 that you should contact to find preservative-free
20 Depo-Medrol?

21 A. No.

22 Q. Why not?

23 A. I don't know.

24 Q. You don't know. You just didn't do it or
25 you can't remember why you didn't do it?

1 conversation around the coffee pot or the water -- or
2 water fountain or --

3 A. I don't know where it was. It was just at
4 the desk probably in the PACU.

5 Q. Okay. So as I understand it, at some point
6 in 2012 -- can you remember approximately when in
7 2012?

8 A. Probably June, July, somewhere in there.

9 Q. Okay. So approximately June, maybe July of
10 2012, Dr. Lister approached you and said he had read
11 about concerns of adverse reactions to the
12 preservative in Depo-Medrol; correct?

13 A. Yes.

14 Q. And he asked you at that time to
15 investigate whether you could obtain preservative-free
16 MPA; is that correct?

17 A. Yes.

18 Q. Okay. Did he instruct you at that time to
19 start ordering preservative-free MPA?

20 A. He instructed me to see if I could find if
21 it was available.

22 Q. Okay. And so what did you do next?

23 A. I told him I had went to a FASCA conference
24 and there was a vendor there, NECC, that we had used
25 previously, and that they were advertising that they

1 Q. And what materials did he give you at that
2 time?

3 A. He give me NECC's pamphlet on the company,
4 what medications was available and what stipulations
5 they had to produce drugs.

6 Q. Okay. Describe to me what you mean by
7 stipulations.

8 A. Okay. They said they followed the USP 797
9 compliance. They had pharmacists that was highly
10 qualified in compounding medication under sterile
11 conditions. They had a Tennessee license. That's
12 about all I remember.

13 Q. Okay. I'm going to hand you documents
14 collectively that I'm going to mark as Exhibit 101.
15 I'm going to ask you to look through these and my
16 question is: Do you recognize these documents?

17 (Exhibit 101 was marked for
18 identification.)

19 THE WITNESS: They're out of order,
20 but, yes, I do.

21 Q. (By Mr. Stranch) Okay. Can you tell me
22 what these documents are.

23 A. This is the information that Mario left me
24 when he come by that day about the NEC Compounding
25 Company.

1 Q. Okay. When you say NEC, it's actually
2 NECC; correct?

3 A. Yes.

4 Q. Okay. Just want to make sure we're talking
5 about the same company.

6 If you'll turn over to SSC-00014, please,
7 these are their materials on Depo-Medrol; correct?

8 A. Yes.

9 Q. What did you do with these materials when
10 you received them?

11 A. I told Mario at that time that I would have
12 to review this with Dr. Lister and the Calishers and
13 get back to him.

14 Q. Okay. And did you usher him out of the
15 room then?

16 A. To my knowledge, he just left.

17 Q. Y'all didn't go out to lunch or do anything
18 like that?

19 A. No.

20 Q. Okay. And when did you then speak to Dr.
21 Lister or the Calishers about these materials?

22 A. It might -- I don't remember. Maybe the
23 next day I showed Dr. Lister the pamphlet.

24 Q. Okay.

25 A. And that was it.

1 Q. At that time did Dr. Lister instruct you to
2 go ahead and order the preservative-free MPA?

3 A. No. He wanted me to make sure that the
4 company had a license.

5 Q. Okay.

6 A. And to follow up with the Calishers and
7 that's what I did.

8 Q. Okay. Do you remember approximately on
9 what day it was that Mario came by and dropped these
10 off?

11 A. July the 10th or 11th, one of them. I'm
12 not sure.

13 Q. Okay. And when did you conduct your
14 investigation into whether NECC had a license and the
15 other issues that Dr. Lister asked you to look into?

16 A. I reviewed the pamphlet. Ask that question
17 again.

18 Q. Okay. Let me back up real quick.
19 When you said that Mario came and dropped
20 these off on July 10th or 11th, that's 2012; correct?

21 A. Correct.

22 Q. And after you met with Mr. -- with Dr.
23 Lister, which would have been the next day, you
24 believe; correct?

25 A. Uh-huh (affirmative). I think so.

1 Q. Dr. Lister instructed you to do an
2 investigation into whether they were licensed in
3 Tennessee; correct?

4 A. Yes.

5 Q. Did he ask you to look into anything else
6 on NECC other than whether they were licensed in
7 Tennessee?

8 A. Like I say, he asked me if they was
9 licensed and to review the information and talk to the
10 Calishers.

11 Q. Okay. And so if we assume that Mario came
12 to see you on July 10th, you would have met with Dr.
13 Lister on the 11th; correct?

14 A. Best to my knowledge. I don't remember
15 exactly.

16 Q. And would you then on the 11th have
17 conducted the investigation into whether they're
18 licensed and all that?

19 A. When I reviewed the pamphlet, I just went
20 down their -- where it says company overview, I went
21 down that list.

22 MR. GIDEON: Jean, give him that
23 number.

24 Q. (By Mr. Stranch) What's the Bates number?

25 A. 0008.

1 Q. Okay. Thank you. Where are we here?

2 A. On 0008 and 0009, I went over the overview,
3 equipment, the personnel, then commitment to quality.
4 And when I seen USP 797 compliant, I went online, I
5 pulled that information. Then I called Mario back,
6 asked him if he had a license and he delivered the
7 license -- well, he come by -- seems like he come by
8 the next day and left the license and stuff with
9 Diane. I was circulating a case that day so I did not
10 get to see him.

11 Q. Okay. And so in doing the due diligence
12 that Dr. Lister asked you to perform, you reviewed
13 their sales materials and asked Mario to give you a
14 copy of their license to do business in the state of
15 Tennessee; correct?

16 A. Yes, correct.

17 Q. Did you go to the Tennessee Department of
18 Health with any questions about NECC?

19 A. No.

20 Q. Did you go to the board of pharmacy and ask
21 any questions about NECC?

22 A. No.

23 Q. Did you do any Google searching on NECC?

24 A. No.

25 Q. So after you completed review of their

1 VIDEOGRAPHER: Here begins Tape No. 2
2 in the deposition of Jean Atkinson. We're
3 back on the record and the time is
4 10:43 a.m.

5 Q. (By Mr. Stranch) Okay, Ms. Atkinson,
6 before the break, we were discussing Specialty
7 Surgery's order of preservative-free MPA from NECC;
8 correct?

9 A. Correct.

10 Q. You testified that you had discussions with
11 Mario about that purchase and NECC's qualifications;
12 correct?

13 A. Yes.

14 Q. Did you have discussions with anyone else
15 at NECC at any point?

16 A. Not that I can remember.

17 Q. Did you meet anyone else from NECC at any
18 point?

19 A. No.

20 Q. Did you ever go to Massachusetts to view
21 their go facilities?

22 A. No.

23 Q. Did you e-mail with anyone else at NECC
24 other than Mario?

25 A. Not that I remember.

1 A. Yes.

2 Q. And who is Kim Bowlin?

3 A. She was our -- I'm not sure Kim's title. I
4 think she was the administrator at that time.

5 Q. Okay. And what was your title in July of
6 2012?

7 A. Director of nursing.

8 Q. Okay. And did Kim do any investigation of
9 NECC before placing an order with them?

10 A. No.

11 Q. Would that have been your job
12 responsibility at Specialty Surgery?

13 A. What?

14 Q. Any investigation of NECC, would that have
15 been -- would you have been the only person at
16 Specialty Surgery who would have been tasked with
17 investigating NECC before placing an order with them?

18 A. I initially started it and then consulted
19 the Calishers.

20 Q. Okay. And no one else at -- scratch that.
21 No other employees of SC -- of Specialty
22 Surgery would be tasked with undertaking that
23 investigation through their normal job duties;
24 correct?

25 A. Yes.

1 did you?

2 A. They could have. They could not.

3 Q. But you didn't know of anyone that did.

4 Can you identify one person that was scheduled at the
5 time you filled this out to receive five shots?

6 A. No.

7 Q. Okay. So did you order five units for each
8 one of these people so that you could get the amount
9 of MPA that you needed into the facility?

10 A. Yes.

11 Q. So it wasn't because these people were
12 definitively going to get five shots. It's because
13 that's the amount the facility needed; correct?

14 A. That is hard to predict, I mean, really and
15 truly. Probably every patient would not have got all
16 five -- all five Depo-Medrols.

17 Q. Okay.

18 A. But they could have.

19 Q. And so the purpose in writing prescriptions
20 for all five was not because each one of these
21 patients would need all five, but instead was because
22 the facility needed that amount of Depo-Medrol;
23 correct?

24 A. Yes.

25 Q. Okay. Was any of the -- was any of the MPA

1 used from NECC on these two order forms Exhibit 93 and
2 94 injected into patients whose names do not appear on
3 these order forms?

4 A. I cannot say that unless I review the
5 charts.

6 Q. How many -- approximately how many patients
7 of Specialty Surgery were injected with NECC MPA?

8 A. I think around 170.

9 Q. And there's not 170 people on these two
10 order forms, are there?

11 A. Correct.

12 Q. So there are definitely people not on the
13 order forms who received shots of MPA from NECC;
14 correct?

15 A. Some of these patients did receive two to
16 three shots of the preservative-free steroid.

17 Q. Ms. Atkinson, I'd like you to pay attention
18 to my question because I think we're talking past each
19 other.

20 There are approximately 170 people who
21 received shots of MPA from NECC at Specialty Surgery;
22 correct?

23 A. Yes.

24 Q. There are not 170 patient names on
25 Exhibit 93 and 94, are there?

1 A. Correct.

2 Q. So there are people who received shots of
3 MPA from NECC at Specialty Surgery who did not --
4 whose names do not appear on these forms; correct?

5 A. That's possible.

6 Q. It is correct, isn't it?

7 A. It's possible.

8 MR. GIDEON: She just answered the
9 question.

10 Q. (By Mr. Stranch) Let's turn to SSC-00030.
11 This is the invoice confirming this prescription list
12 for 120 units of MPA preservative-free; correct?

13 A. Yes.

14 Q. And SSC-00031 is a packing slip; correct?

15 A. Yes.

16 Q. And you received a packing slip like this
17 with both orders from NECC; correct?

18 A. Yes.

19 MR. STRANCH: Let me have just
20 30 seconds real quick.

21 Q. (By Mr. Stranch) I want to talk with you a
22 little bit about the division of your job
23 responsibilities between you and Calisher to make sure
24 that we're very clear on what you consider to be your
25 responsibility and what you consider to be Calisher's

1 responsibility; okay?

2 A. Yes.

3 Q. What did you consider to be Calisher's
4 responsibility as it relates to pharmaceutical -- to
5 new vendors?

6 A. To -- for -- they -- we would find a
7 vendor. We would go to Calishers, tell them the
8 vendor's name, what we needed to order and they would
9 decide whether we ordered from them or not.

10 Q. Okay. And so you would provide your due
11 diligence materials in picking the vendor to Calisher
12 and then Calisher would do their own separate
13 investigation before allowing the new vendor; correct?

14 A. Yes.

15 Q. And did Calisher also do continuing
16 investigation of current vendors to make sure that
17 they're still up to the requirements of Specialty
18 Surgery for use as a vendor?

19 A. I have no idea.

20 Q. Did you view that as being your
21 responsibility?

22 A. No.

23 Q. No. Did you think that Calisher was taking
24 care of that?

25 MR. GIDEON: She just answered it as

1 I have no idea. I object to the
2 repetition.

3 MR. STRANCH: Okay.

4 Q. (By Mr. Stranch) Who did you think was
5 doing that?

6 A. The management.

7 Q. And who is the management?

8 A. Calisher & Associates.

9 Q. Okay. If there was a payroll problem,
10 would that be an issue you would deal with or would
11 that be dealt with by Calisher?

12 A. Calishers.

13 Q. Would someone come to you -- would one of
14 your nurses come to you with it and you would forward
15 it on to Calisher or would they be instructed to go
16 directly to Calisher?

17 A. If there was a payroll issue, they would go
18 to Kim Bowlin.

19 Q. Okay. And when someone went to Kim, that
20 was the same thing as going to Calishers; correct?

21 A. Yes.

22 Q. Did you have a written document that you
23 were given that outlined when you were to send stuff
24 to Calishers and then when you were to handle it on
25 your own?

1 Q. So would -- and if you look again at
2 Exhibit 94, it says in the directions, steroid
3 epidural; correct?

4 A. Yes.

5 Q. So are you aware of a single person in the
6 time you've worked at NECC if we reviewed the accurate
7 medical records you're required to maintain by law
8 that would have received five epidural steroid
9 injections of MPA in a 180-day time frame?

10 A. No.

11 MR. STRANCH: We're going to break
12 for lunch now.

13 MR. GIDEON: Five minutes, ten, an
14 hour, what do you want?

15 MR. STRANCH: My size, you need more
16 than five minutes.

17 MR. GIDEON: Just tell us what time
18 to be back.

19 MR. STRANCH: Why don't we just say
20 an hour, 12:45.

21 VIDEOGRAPHER: We're off the record.
22 This is the end of Tape No. 2. The time is
23 11:44 a.m.

24 (A lunch recess was taken at 11:44
25 a.m. and the deposition reconvened at 12:50